

Senate File 2307 - Introduced

SENATE FILE 2307

BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO SF 335)

A BILL FOR

1 An Act concerning matters relating to the transportation of
2 railroad workers and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 327F.39, subsection 1, Code 2014, is
2 amended by adding the following new paragraphs:

3 NEW PARAGRAPH. *00e. "Employee",* when used in connection
4 with the transportation of railroad workers, means a driver
5 who performs a service for the railroad worker transportation
6 company, either for wages or as an independent contractor.

7 NEW PARAGRAPH. *00e. "Employer",* when used in connection
8 with the transportation of railroad workers, means a railroad
9 worker transportation company.

10 Sec. 2. Section 327F.39, subsection 1, paragraph h, Code
11 2014, is amended to read as follows:

12 *h. "Railroad worker transportation company"* means a person,
13 other than a railroad ~~corporation~~ company, organized for the
14 purpose of or engaged in the business of transporting, for
15 hire, railroad workers to or from their places of employment or
16 in the course of their employment in motor vehicles designed
17 to carry seven or more persons but fewer than sixteen persons
18 including the driver.

19 Sec. 3. Section 327F.39, subsection 3, Code 2014, is amended
20 by adding the following new paragraphs:

21 NEW PARAGRAPH. *a.* An employer who owns or operates a
22 motor vehicle for the transportation of railroad workers
23 shall inspect the motor vehicle or cause the motor vehicle to
24 be inspected annually in compliance with 49 C.F.R. §396.17,
25 as amended, by a person qualified to perform the inspection
26 as provided in 49 C.F.R. §396.19, as amended. In addition,
27 the employer shall require each employee who drives a motor
28 vehicle for the transportation of railroad workers to complete
29 a written daily report as provided in 49 C.F.R. §396.11, as
30 amended.

31 NEW PARAGRAPH. *b.* An employer shall establish a maintenance
32 and repair program that provides for weekly inspection of each
33 motor vehicle operated by its employees for the transportation
34 of railroad workers to assure overall cleanliness of the motor
35 vehicle, that parts and accessories are in safe and operable

1 condition, and that the motor vehicle is equipped with all of
2 the following in good repair:

3 (1) Tires with sufficient tread as prescribed in 49 C.F.R.
4 §393.75, as amended.

5 (2) A fully inflated spare tire.

6 (3) A secure location for personal baggage, including
7 proper baggage restraints.

8 (4) Fully operational seatbelts for all passenger seats.

9 (5) If required by weather conditions, traction devices,
10 studs, or chains.

11 (6) A heater and air conditioner that are properly working
12 with properly working fans.

13 (7) An emergency road kit that contains, at a minimum, a
14 tire-inflating aerosol can, flares or reflective triangles,
15 jumper cables, and a fire extinguisher.

16 (8) A readily available first aid kit in compliance with
17 29 C.F.R. §1910.151, as amended, which includes the articles
18 described in appendix A of that section.

19 NEW PARAGRAPH. c. A motor vehicle used for the
20 transportation of railroad workers shall be equipped with an
21 operable amber flashing light mounted on the rear one-third
22 portion of the roof in order to provide warning to other
23 motorists whenever the vehicle has slowed or stopped on or near
24 the roadway.

25 NEW PARAGRAPH. d. A motor vehicle used for the
26 transportation of railroad workers shall not be operated in a
27 condition that is likely to cause an accident or a mechanical
28 breakdown.

29 NEW PARAGRAPH. e. An employer shall maintain records
30 relating to the maintenance and repair program for each motor
31 vehicle operated by its employees for the transportation of
32 railroad workers. The records shall include:

33 (1) Identifying information for the motor vehicle,
34 including the vehicle identification number; make, model, and
35 year of manufacture; and the railroad company's identification

1 number if provided.

2 (2) Owner information if the employer is not the owner of
3 the vehicle.

4 (3) The history of inspections, repairs, and maintenance
5 that describes each activity and the date the activity was
6 performed.

7 NEW PARAGRAPH. *f.* Records required under this section shall
8 be maintained by an employer at its principal place of business
9 for one year. If a motor vehicle leaves the employer's
10 control, the records pertaining to that vehicle shall be
11 maintained by the employer at the employer's principal place of
12 business for six months.

13 NEW PARAGRAPH. *g.* An employer and the employer's officers,
14 agents, and employees who are involved with the inspection or
15 maintenance of motor vehicles shall comply with the employer's
16 maintenance and repair program as provided under this section.

17 Sec. 4. Section 327F.39, Code 2014, is amended by adding the
18 following new subsections:

19 NEW SUBSECTION. 5A. *Driver qualifications.*

20 *a.* An employer shall maintain a driver qualification
21 file for each employee who drives a motor vehicle for the
22 transportation of railroad workers. The driver qualification
23 file shall include all of the following:

24 (1) A certificate of physical examination signed and dated
25 within the previous two years by a physician licensed under
26 chapter 148 certifying that the employee is physically able to
27 operate a motor vehicle.

28 (2) Documentation that the employer has reviewed the
29 driver's driving record within the previous twelve months.

30 (3) Documentation relating to the driver's violation of any
31 applicable motor vehicle laws or ordinances.

32 (4) Other documentation related to the driver's
33 qualification or ability to drive a motor vehicle.

34 (5) The driver's application for employment as provided by
35 49 C.F.R. §391.21, as amended.

1 (6) References from previous employers, if required by the
2 current employer.

3 (7) A copy of the driver's current class D driver's license
4 or an equivalent driver's license.

5 b. A person shall be disqualified from driving for an
6 employer if the driver is convicted of two or more serious
7 traffic violations committed within a three-year period in this
8 state or another state. For purposes of this section, "*serious*
9 *traffic violation*" means any violation committed while operating
10 a motor vehicle if the violation resulted in the suspension
11 or revocation of the person's driver's license, or any of the
12 following violations, whether or not the violation resulted in
13 license suspension or revocation:

14 (1) A violation of chapter 321J or an equivalent law of
15 another state.

16 (2) A seat belt violation.

17 (3) A violation of commercial motor vehicle laws.

18 (4) A speeding violation for a speed of fifteen miles per
19 hour or more over the legal limit.

20 (5) Negligent homicide.

21 (6) Using a motor vehicle in the commission of a felony.

22 (7) Evading arrest.

23 (8) Using a motor vehicle to flee law enforcement.

24 (9) Careless driving.

25 (10) Prohibited passing of another vehicle.

26 (11) Unlawfully passing a stopped school bus.

27 (12) Failure to obey an official traffic-control signal or
28 device.

29 (13) Failure to obey a railroad crossing gate.

30 (14) Driving while the person's driver's license or
31 operating privileges are suspended, canceled, or revoked.

32 (15) Driving the wrong way on a one-way street.

33 c. Prior to allowing a person to perform the duties of
34 a driver, an employer shall require the person to submit to
35 testing for alcohol and controlled substances as provided in

1 49 C.F.R. pts. 40 and 382, as amended. A person shall not be
2 allowed to perform the duties of a driver unless the alcohol
3 test result for the person indicates an alcohol concentration
4 of zero and the controlled substances test result from a
5 medical review officer, as defined in 49 C.F.R. §40.3, as
6 amended, indicates a verified negative.

7 d. (1) As soon as practicable following an accident
8 involving a motor vehicle owned or operated by an employer,
9 the employer shall test each surviving driver for alcohol and
10 controlled substances if any of the following apply:

11 (a) The accident involved the death of a person.

12 (b) The driver received a citation for a moving violation
13 arising from the accident and the accident involved bodily
14 injury to a person who immediately received medical treatment
15 after the accident.

16 (c) The driver received a citation for a moving violation
17 arising from the accident and the accident involved disabling
18 damage to one or more motor vehicles involved in the accident.

19 (2) Testing for the presence of alcohol shall be conducted
20 immediately following the accident or no later than eight hours
21 after the accident. Testing for the presence of controlled
22 substances shall be conducted immediately following the
23 accident or no later than thirty-two hours after the accident.
24 The test results shall be submitted to the department. The
25 employer shall maintain a record of the test results for five
26 years following the date of the accident.

27 e. Notwithstanding any other provision, a person shall be
28 disqualified from driving for the employer upon the occurrence
29 of any of the following:

30 (1) The person's alcohol and controlled substances test
31 results are not in compliance with paragraph "c".

32 (2) The person refuses to provide a specimen for alcohol
33 testing, testing for controlled substances, or both.

34 (3) The person submits an adulterated specimen, a dilute
35 positive specimen, or a substituted specimen for an alcohol

1 test or a test for controlled substances.

2 *f.* Testing of an employee for the presence of alcohol or a
3 controlled substance under this subsection shall be performed
4 in accordance with section 730.5.

5 NEW SUBSECTION. 5B. *Financial liability coverage.*

6 *a.* An employer shall maintain financial liability coverage
7 in the amount of one million dollars per person, up to a
8 maximum of five million dollars, for each motor vehicle owned
9 or operated by the employer to transport railroad workers.

10 *b.* An employer shall maintain uninsured and underinsured
11 motor vehicle coverage in the amount of one million dollars
12 per motor vehicle occupant, up to a maximum of five million
13 dollars, for each motor vehicle owned or operated by the
14 employer to transport railroad workers.

15 Sec. 5. Section 327F.39, subsection 6, Code 2014, is amended
16 to read as follows:

17 6. ~~*Rule violations*~~ *Violations.* When the administrator
18 finds that a motor vehicle used to transport workers to and
19 from their places of employment or during the course of their
20 employment ~~violates~~ is not in compliance with this section or a
21 rule adopted under this section, the administrator shall make,
22 enter, and serve upon the owner of the motor vehicle an order
23 as necessary to protect the safety of workers transported in
24 the motor vehicle. The administrator may direct in the order,
25 as a condition to the continued use of the motor vehicle for
26 transporting workers to and from their places of employment or
27 during the course of their employment, that additions, repairs,
28 improvements, or changes be made and that safety devices and
29 safeguards be furnished and used as required to satisfy the
30 rules in the manner and within the time specified in the order.
31 The order may also require that any driver of the motor vehicle
32 satisfy the minimum standards for a driver under ~~the~~ this
33 section or rules adopted under this section.

34 Sec. 6. Section 327F.39, Code 2014, is amended by adding the
35 following new subsection:

1 NEW SUBSECTION. 6A. *Access provided to department.* An
2 employer shall provide the department, or an agent or employee
3 of the department, with access to the following:

4 a. A facility owned or controlled by the employer, for the
5 purpose of determining compliance with this section.

6 *b.* Records related to an accident involving a vehicle owned
7 or operated by the employer.

8 Sec. 7. Section 327F.39, subsection 7, Code 2014, is amended
9 to read as follows:

10 7. *Penalty.*

11 a. ~~Violation~~ Except as otherwise provided in this
12 subsection, a violation by the owner of a motor vehicle of this
13 section, a rule adopted under this section, or an order issued
14 under subsection 6, or willful failure to comply with such an
15 order is, upon conviction, subject to a schedule "one" penalty
16 as provided under section 327C.5.

17 b. A violation of subsection 5 or rules adopted pursuant
18 to subsection 5 by a railroad worker transportation company or
19 a railroad company is punishable as a schedule "one" penalty
20 under section 327C.5.

21 c. A railroad worker transportation company or a railroad
22 company that violates this section or a rule adopted pursuant
23 to this section may be subject to a civil penalty not to exceed
24 two thousand dollars in addition to any other penalty provided
25 by law.

d. Each violation of this section or a rule adopted pursuant
to this section constitutes a separate and distinct offense,
and for violations of a continuing nature, each day that a
violation continues constitutes a separate offense.

| 30 | EXPLANATION |
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31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill contains provisions relating to companies
34 that operate motor vehicles and employ drivers for the
35 transportation of railroad workers.

1 Under the bill, the term "employer" means a railroad worker
2 transportation company. The term "employee" refers to a driver
3 who performs a service for a railroad worker transportation
4 company, either for wages or as an independent contractor.

5 The bill requires an employer to provide for annual
6 inspection of the employer's motor vehicles by a qualified
7 person. In addition, each employee who drives a motor vehicle
8 must complete a daily written vehicle report. An employer is
9 also required to establish a maintenance and repair program
10 that includes weekly inspection of each motor vehicle, with a
11 focus on cleanliness and the condition of vehicle parts and
12 accessories specified in the bill. An employer is required to
13 maintain records relating to vehicle maintenance and repair for
14 one year, or for a vehicle no longer in the employer's control,
15 for six months.

16 The bill requires an employer to maintain a driver
17 qualification file for each employee that includes specified
18 documentation relating to the employee's driving record
19 and employment record. The bill states that an employee
20 is disqualified from driving for an employer if the driver
21 is convicted of two or more serious traffic violations
22 committed within three years in Iowa or in any other state.
23 For purposes of the bill, "serious traffic violation" means
24 any violation committed while operating a motor vehicle
25 if the violation resulted in suspension or revocation of
26 the person's drivers license, or the following violations,
27 whether or not the violation resulted in license suspension
28 or revocation: operating while intoxicated, a seat belt
29 violation, a violation of commercial motor vehicle laws,
30 speeding more than 15 miles per hour over the limit, negligent
31 homicide, using a motor vehicle in commission of a felony,
32 evading arrest, using a motor vehicle to flee law enforcement,
33 careless driving, prohibited passing, unlawfully passing a
34 school bus, failure to obey a traffic control signal or device,
35 driving while suspended, and driving the wrong way on a one-way

1 street.

2 The bill requires drivers to be tested for the presence of
3 alcohol and controlled substances as a condition of employment.
4 In addition, an employer is required to have a driver tested
5 for alcohol and controlled substances following an accident
6 occurring in the course of the driver's employment if the
7 accident involved the death of a person, or if the accident
8 resulted in bodily injury to a person or disabling damage to a
9 motor vehicle and the driver received a citation for a moving
10 violation. Grounds for disqualification of a driver include
11 a test result indicating an alcohol concentration above zero
12 or a controlled substance test result other than a verified
13 negative; refusing to provide a specimen for testing; or
14 adulteration, dilution, or substitution of a specimen.

15 The bill requires an employer to maintain financial
16 liability coverage in the amount of \$1 million per person, up
17 to a maximum of \$5 million per motor vehicle owned or operated
18 by the employer and uninsured or underinsured motorist coverage
19 in the amount of \$1 million per motor vehicle occupant, up to a
20 maximum of \$5 million per motor vehicle.

21 The bill requires an employer to provide the department of
22 transportation with access to the employer's facilities and to
23 records relating to accidents involving the employer's motor
24 vehicles.

25 Pursuant to current law, a violation of the provisions
26 relating to the transportation of railroad workers is
27 punishable by a schedule "one" penalty, which is a fine of
28 \$100. The bill allows an additional civil penalty of up to
29 \$2,000 to be imposed for any violation of the provisions of the
30 bill by a railroad company or a railroad worker transportation
31 company. Each violation of the provisions relating to the
32 transportation of railroad workers constitutes a separate and
33 distinct offense, and for violations of a continuing nature,
34 each day that a violation continues constitutes a separate
35 offense.